

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
vs.)	Case No. CR-22-213-D
)	
MARKESE LAVERT McCANE,)	
Defendant.)	

ORDER GRANTING
DEFENDANT MARKESE LAVERT McCANE'S
SECOND UNOPPOSED MOTION TO CONTINUE JURY TRIAL
(RE: Docket Entry 23)

This matter is before the Court on the defendant's second unopposed motion for an order continuing the jury trial currently scheduled on the Court's October 11, 2022 jury trial docket. The Speedy Trial Act gives this Court the discretion to accommodate limited delays for case specific needs. *United States v. Zedner*, 547 U.S. 489, 499 (2006). The Court finds the denial of the motion under the facts of this case would unreasonably deny the defendant reasonable time necessary for effective preparation and disposition of the case, taking into account the exercise of due diligence by counsel.

In the second unopposed motion, the defendant Markese Lavert McCane, by Counsel Michael Noland asserts that based on Counsel's schedule he is need of more time to continue to review discovery, conduct independent investigations,

and further legal research. That Counsel is awaiting transcripts from the District Court of Oklahoma County as it relates to the instant offense. Counsel is further continuing to review evidence in this case.

The facts of this case justify an ends of justice determination that a continuance outweighs the best interest of the public and the defendant in a speedy trial. *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009), citing 18 U.S.C. § 3161(h)(7)(A). In making this determination, the Court has specifically considered the length of delay, the reasons for delay, the defendant's assertion of their right, any prejudice to the defendants and other relevant circumstances. See *Toombs*, 574 F.3d at 1274. The period of delay caused by the granting of the motion to continue on this ground is excludable for purposes of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(B)(iv), and the Sixth Amendment's speedy trial guarantee.

Therefore, the Court finds the unopposed motion should be granted. The Court hereby continues the Jury Trial in this matter to December 6, 2022.

IT IS SO ORDERED this 4th day of October, 2022.


ROBIN J. CAUTHRON
United States District Judge